

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7075**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ALBERTO KING, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Columbia. Cameron M. Currie, District Judge. (CR-00-780-3)

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Submitted: October 23, 2003

Decided: October 30, 2003

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Before WILLIAMS, MOTZ, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Alberto King, Jr., Appellant Pro Se. Mark C. Moore, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Alberto King, Jr., seeks to appeal the district court's denial of his motion for a reduction of his sentence pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed. Movants are accorded ten days after the entry of the district court's final judgment or order to note an appeal in criminal cases. Fed. R. App. P. 4(b)(1); United States v. Breit, 754 F.2d 526, 528 (4th Cir. 1985) (applying ten-day appeal period to Rule 35 motion). The district court's order denying Rule 35 relief was entered on the docket on February 14, 2003. King did not file his notice of appeal until July 2003. Because he failed to file a timely notice of appeal or to obtain an extension of the appeal period within the thirty-day excusable neglect period, Fed. R. App. P. 4(b)(4), we deny leave to proceed in forma pauperis and dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED